

Subpart E—Restrictions on Drawback and Duty-Deferral Programs

§ 181.41 Applicability.

This subpart sets forth the provisions regarding drawback claims and duty-deferral programs under Article 303 of the NAFTA and applies to any good that is a “good subject to NAFTA drawback” within the meaning of 19 U.S.C. 3333. Except in the case of § 181.42(d), the provisions of this subpart apply to goods which are imported into the United States and then subsequently exported from the United States to Canada on or after January 1, 1996, or to Mexico on or after January 1, 2001. The requirements and procedures set forth in this subpart for NAFTA drawback are in addition to the general definitions, requirements and procedures for all drawback claims set forth in part 191 of this chapter, unless otherwise specifically provided in this subpart. Also, the requirements and procedures set forth in this subpart for NAFTA duty-deferral programs are in addition to the requirements and procedures for manipulation, manufacturing and smelting and refining warehouses contained in part 19 and part 144 of this chapter, for foreign trade zones under part 146 of this chapter, and for temporary importations under bond contained in part 10 of this chapter.

§ 181.42 Duties and fees not subject to drawback.

The following duties or fees which may be applicable to a good entered for consumption in the Customs territory of the United States are not subject to drawback under this subpart:

- (a) Antidumping and countervailing duties;
- (b) A premium offered or collected on a good with respect to quantitative import restrictions, tariff rate quotas or tariff preference levels;
- (c) Fees applied under section 22 of the U.S. Agricultural Adjustment Act; and
- (d) Customs duties paid or owed under unused merchandise substitution drawback. There shall be no payment of such drawback under 19 U.S.C. 1313(j)(2) on goods exported to Canada or Mexico on or after January 1, 1994.

§ 181.43 Eligible goods subject to drawback.

Except as otherwise provided in this subpart, drawback is authorized for an imported good that is entered for consumption and is:

- (a) Subsequently exported to Canada or Mexico (see 19 U.S.C. 1313(j)(1));
- (b) Used as a material in the production of another good that is subsequently exported to Canada or Mexico (see 19 U.S.C. 1313(a)); or
- (c) Substituted by a good of the same kind and quality as defined in § 181.44(c) of this subpart and used as a material in the production of another good that is subsequently exported to Canada or Mexico (see 19 U.S.C. 1313(b)).

§ 181.44 Calculation of drawback.

(a) *General.* Except in the case of goods specified in § 181.45 of this part, drawback of the duties previously paid upon importation of a good into the United States may be granted by the United States, upon presentation of a NAFTA drawback claim under this subpart, on the lower amount of:

- (1) The total duties paid or owed on the good in the United States; or
- (2) The total amount of duties paid on the exported good upon subsequent importation into Canada or Mexico.

(b) *Individual relative value and duty comparison principle.* For purposes of this section, relative value shall be determined, and the comparison between the duties referred to in paragraph (a)(1) of this section and the duties referred to in paragraph (a)(2) of this section shall be made, separately with reference to each individual exported good, including where two components or materials are used to produce one exported good or one component or material is divided among multiple exported goods.

Example. Upon importation of Chemical X into the United States, Company A entered Chemical X and paid \$2.00 in duties. Company A processed Chemical X into Products Y and Z, each having the same relative value; that is, \$1.00 in duty is attributable to Product Y and \$1.00 in duty is attributable to Product Z. Company A exported Product Y to Canada and Canada assessed a free rate of duty. Company A exported Product Z to Mexico and Mexico assessed the equivalent of US\$2.00 in duty. There is no entitlement to drawback on the export of Product Y to